



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MAP - 176137

PRELIMINARY RECITALS

Pursuant to a petition filed on August 10, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Lafayette County Department of Human Services regarding Medical Assistance (MA), a hearing was held on September 1, 2016, by telephone.

The issue for determination is whether the county agency correctly determined that, effective July 1, 2016, the petitioner is no longer financially eligible for the Medical Assistance Purchase Plan.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]
Lafayette County Department of Human Services
627 Main Street
Darlington, WI 53530

ADMINISTRATIVE LAW JUDGE:

Teresa A. Perez
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Lafayette County.

2. Sometime in June of 2016, the petitioner was notified that her eligibility for the Medical Assistance Purchase Plan (MAPP) would end effective July 1, 2016.
3. Petitioner's MAPP eligibility was terminated because the county determined that the combined net income of petitioner and her spouse is \$3,718.74, which exceeds the MAPP program's income limit, which is 250% of the Federal Poverty Level (i.e., \$3,337.50 for a household of two).
4. Petitioner's spouse has earned income of \$1,280 per month from [REDACTED] and \$2,083 per month from [REDACTED].
5. Petitioner has \$108.71 per month of earned self-employment income from a cupcake business.
6. Petitioner and her spouse have \$1,193.33 per month of countable rental income.
7. Petitioner and her spouse have \$-294.92 of countable self-employment farm income.
8. Petitioner receives \$1,586 per month in Social Security benefits.

DISCUSSION

For an unspecified period of time, the petitioner received benefits under the Medical Assistance Purchase Plan (MAPP). The county did not submit a copy of any written notices relevant to the appeal but both the county representative and petitioner's representative agreed that the petitioner's eligibility for MAPP ended as of July 1, 2016; that petitioner received notice of that termination sometime in June of 2016; and that the county based its decision to terminate petitioner's eligibility on verification of income that she and her spouse submitted.

The MAPP program is intended to allow persons with disabilities to work and to receive medical assistance. To be eligible for the MAPP program, the net income of the applicant's or member's family cannot exceed 250% of the Federal Poverty Level (FPL) for the appropriate fiscal test group size. Wis. Stat. § 49.472(3)(a); *Medicaid Eligibility Handbook* §26.4.2. The petitioner resides with her spouse. The applicable MAPP program income limit for a fiscal test group of two is \$3,375.00. *Medicaid Eligibility Handbook* §39.5.

Petitioner agreed with all of the income figures the county used in calculating her income but disagreed with how the county calculated eligibility based on those figures. Petitioner did not assert or present any evidence that the rental and farm income reflected in her and her spouse's 2015 tax forms, which the county appropriately used to calculate their anticipated farm and rental income, are likely to decrease. Rather, the petitioner and her spouse explained that the manner in which her net income was calculated does not truly reflect the amount of income that she and her husband have available to them after paying their basic and necessary household expenses.

The Department of Health Services, the agency charged with administering the MAPP program, has set forth policies that county agencies must follow in calculating countable net income. *Medicaid Eligibility Handbook* § 26.4.2. Those policies, in relevant part, direct the agency to combine all the applicant/member (and the applicant/member spouse, if they live together) earned income; to subtract \$65 from that amount; and to then divide the difference in half. The result is the amount of "countable earned income" the county must use in determining total net income.

The county properly included the following income in calculating the petitioner's total earned income:

- Wages received by petitioner's spouse from [REDACTED]: \$1280 / month
- Wages received by petitioner's spouse from [REDACTED]: \$2,083.33 / month

- Rental income: \$1,193.33 / month
- Farm income: -\$294.92
- Self-employment income received from petitioner's cupcake business: \$108.71

The sum of those figures is \$4,370.45. After applying the earned income disregard described above, the petitioner's countable earned income is \$2,152.73.

Department policies also require the county agency to include unearned income minus a \$20 disregard in determining total net income. Petitioner's Social Security income of \$1,586 constitutes unearned income. After applying the required \$20 disregard, the county correctly calculated Petitioner's countable unearned income to be \$1,566. Petitioner's total countable net income for purposes of MAPP program eligibility is therefore \$3718.73, which is in excess of the income limit for the MAPP program applicable to a household of two (i.e., \$3,375.00).

Although the petitioner did not dispute the particular figures used by the county agency in calculating her total countable net income, she and her husband did express general concern regarding the extent to which depreciation of their farm was considered. I therefore note that *Medicaid Eligibility Handbook* §15.6.5, et. al. specify that in calculating countable farm income for the purpose of determining eligibility for certain Medical Assistance programs, including the MAPP program, the county must add the net profit or loss, depreciation, and amortization figures from Schedule F, IRS Form 1040. I have reviewed the county's calculation of petitioner's farm income and conclude that it was accurate.

Petitioner and her husband offered sincere and credible testimony regarding the limited amount of income they have to make ends meet, petitioner's medical condition, and their understandable disappointment regarding petitioner's loss of MA. There is however insufficient evidence to conclude that the county erred in reaching its decision. And, as an administrative law judge, I do not have the authority to make an exception for petitioner unless the relevant laws and regulations explicitly set forth an exception. The relevant laws in this case provide no such exception.

CONCLUSIONS OF LAW

The county properly determined that the petitioner is not financially eligible for the Medical Assistance Purchase Program.

THEREFORE, it is

ORDERED

That the petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

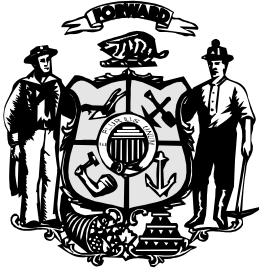
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 2nd day of September, 2016

\s _____
Teresa A. Perez
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on September 2, 2016.

Lafayette County Department of Human Services
Division of Health Care Access and Accountability